

REMARKS

The final Office Action mailed August 15, 2006 has been carefully reviewed and the foregoing amendments have been made in consequence thereof.

Claims 1-20 are pending in this application. Claims 1-20 stand rejected. Claims 10 and 13 are amended to correct minor informalities.

The rejection of Claims 1 and 8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 2,529,267 to Sloane (hereinafter referred to as "Sloane") is respectfully traversed.

Sloane describes a collapsible container (C) having a bottom wall and four walls including two longitudinal walls and two end-walls. The longitudinal walls include vertical rods (2) and longitudinal rods (1) having end-loops (1a). Each end-wall includes an edge-frame (3) that is hooked by the end-loops (1a) of the longitudinal walls in order to connect the walls to each other.

Although the end-loops (1a) engage vertical legs of the respective edge-frames (3), the end-loops (1a) serve as pivot loops to allow the container (C) to collapse into a flat shape when the bottom wall is upturned. Therefore, a vertical column of the individually, spaced apart end-loops (1a) collectively form a pivoting slot in which a vertical leg of a respective edge-frames (3) may pivot so that the lateral walls may rotate with respect to each other. Notably, Sloane does not describe or suggest that the vertical legs of the edge frames (3) disengage the end-loops (1a), but rather engaged portions of the vertical legs continuously engage a same end-loop (1a) with the container (C) in the erected position and the collapsed position.

Claim 1 recites a dishwasher rack basket assembly having a basket including "a collapsible basket of open mesh construction comprising a plurality of walls, said plurality of walls comprising: a back wall, a front wall including at least one projecting slide portion, and a plurality of side walls connecting said back wall to said front wall, each of said side walls including a front wall end, a back wall end opposite said front wall end, and at least one

continuous longitudinal slot, said at least one continuous longitudinal slot comprising a front slot end positioned adjacent to said front wall end and a back slot end positioned adjacent to said back wall end, said at least one continuous longitudinal slot being slidably engageable with said at least one projecting slide portion to position and transform said basket between a first size and a second size, said first size securing small items while permitting flow of liquid therethrough, said second size smaller than said first size and not securing small items while permitting flow of liquid therethrough, said at least one projecting slide portion engaged with said front slot end and disengaged from said back slot end when said basket is said first size, said at least one projecting slide portion engaged with said back slot end and disengaged from said front slot end when said basket is said second size.”

Sloane does not describe or suggest a dishwasher rack basket as recited in Claim 1. Specifically, Sloane does not describe or suggest a dishwasher rack basket having a collapsible basket including at least one projecting front wall slide portion engaged with a side wall front slot end and disengaged from a side wall back slot end when the basket is a first size, and the projecting front wall slide portion engaged with the back slot end and disengaged from the front slot end when said basket is a second size, as required by Applicant’s claimed invention. Rather, Sloane describes vertical legs of the edge frames (3) that continuously engage a same end-loop (1a) with the container (C) in the erected position and the collapsed position. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Sloane.

Claim 8 depends directly from independent Claim 1. When the recitations of Claim 8 are considered in combination with the recitations of Claim 1, Applicant respectfully submits that dependent Claim 8 likewise is patentable over Sloane.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 1 and 8 be withdrawn.

The rejection of Claims 2-5 under 35 U.S.C. § 103(a) as being unpatentable over Sloane in view of U.S. Patent 4,732,291 to McConnell (hereinafter referred to as “McConnell”) is respectfully traversed.

Sloane is described above. McConnell merely shows, in Figures 1 and 2, a non-collapsible dishwasher enclosure assembly (11) including a retractable upper lid (13) and a retractable lower lid (15). Notably, McConnell does not describe or suggest a collapsible dishwasher basket including side walls having at least one continuous longitudinal slot that slidably engages a projecting slide portion of a front wall to transform the basket from a first size to a smaller second size. Moreover, McConnell does not describe or suggest a front wall slide portion engaged with a side wall front slot end and disengaged from a side wall back slot end when the assembly (11) is a first size, and the front wall slide portion engaged with the back slot end and disengaged from the front slot end when the assembly (11) is a second size.

Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not proper rejections. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Sloane nor McConnell, considered alone or in combination, describes or suggests the claimed combination. Further, contrary to the Examiner's allegations, Applicant respectfully submits that it would not be obvious to one skilled in the art to combine Sloane and McConnell because there is no motivation to combine the references suggested in the art. Moreover, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicant's own teaching.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Further, it is impermissible to use the claimed invention as an instruction manual or “template” to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected in an attempt to arrive at the claimed invention. Since there is no teaching or suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant requests that the Section 103 rejection be withdrawn.

Moreover, and to the extent understood, no combination of Sloane and McConnell describes or suggests a dishwasher rack basket assembly as recited in Claim 1. Specifically, no combination of Sloane and McConnell describes or suggests a dishwasher rack basket assembly having a collapsible basket including at least one projecting front wall slide portion engaged with a side wall front slot end and disengaged from a side wall back slot end when the basket is a first size, and the projecting front wall slide portion engaged with the back slot end and disengaged from the front slot end when said basket is a second size, as required by Applicant’s claimed invention. Rather, Sloane describes vertical legs of the edge frames (3) that continuously engage a same end-loop (1a) with the container (C) in the erected position and the collapsed position, and McConnell merely describes a non-collapsible dishwasher enclosure assembly (11). Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Sloane in view of McConnell.

Claims 2-5 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2-5 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2 and 5 likewise are patentable over Sloane in view of McConnell.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 2-5 be withdrawn.

The rejection of Claims 6, 7 and 9-20 under 35 U.S.C. § 103(a) as being unpatentable over Sloane in view of McConnell, and further in view of U.S. Patent 4,834,125 to Insalaco (hereinafter referred to as "Insalaco") is respectfully traversed.

Sloane and McConnell are described above. Insalaco merely describes a non-collapsible utensil basket (10) including hooks (28) to removably mount the basket (10) onto a front portion (30) of an upper dishwasher rack (12). Notably, Insalaco does not describe or suggest a collapsible dishwasher basket including side walls having at least one continuous longitudinal slot that slidably engages a slide portion of a front wall to transform the basket from a first size to a smaller, second size. Moreover, Insalaco does not describe or suggest a front wall slide portion engaged with a side wall front slot end and disengaged from a side wall back slot end when the basket (10) is a first size, and the front wall slide portion engaged with the back slot end and disengaged from the front slot end when the basket (10) is a second size.

Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not proper rejections. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. None of Sloane, McConnell and Insalaco, considered alone or in combination, describes or suggests the claimed combination. Further, contrary to the Examiner's allegations, Applicant respectfully submits that it would not be obvious to one skilled in the art to combine Sloane, McConnell and/or Insalaco, because there is no motivation to combine the references suggested in the art. Moreover, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicant's own teaching.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather,

there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Further, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected in an attempt to arrive at the claimed invention. Since there is no teaching or suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant requests that the Section 103 rejection be withdrawn.

Claim 1 is recited above. No combination of Sloane, McConnell and Insalaco describes or suggests a dishwasher rack basket assembly as recited in Claim 1. Specifically, no combination of Sloane, McConnell and Insalaco describes or suggests a dishwasher rack basket assembly having a collapsible basket including at least one projecting front wall slide portion engaged with a side wall front slot end and disengaged from a side wall back slot end when the basket is a first size, and the projecting front wall slide portion engaged with the back slot end and disengaged from the front slot end when said basket is a second size, as required by Applicant's claimed invention. Rather, Sloane describes vertical legs of the edge frames (3) that continuously engage a same end-loop (1a) with the container (C) in the erected position and the collapsed position, McConnell merely describes a non-collapsible dishwasher enclosure assembly (11), and Insalaco merely describes a non-collapsible basket

(10). Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Sloane in view of McConnell, and further in view of Insalaco.

Claims 6 and 7 depend directly from independent Claim 1. When the recitations of Claim 6 and 7 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 6 and 7 likewise are patentable over Sloane in view of McConnell, and further in view of Insalaco.

Claim 9 recites a rack assembly having a basket assembly including "... a collapsible basket assembly removably attached to said rack, said basket assembly comprising: a plurality of longitudinal walls having a first length, said longitudinal walls comprising a back wall and a front wall including at least one projecting slide portion; a plurality of lateral walls connecting said back wall to said front wall, each of said lateral walls having a second length and being pivotably attached to at least one of said longitudinal walls, each of said lateral walls comprising: a front wall end; a back wall end opposite said front wall end; and at least one continuous longitudinal slot comprising a front slot end positioned adjacent to said front wall end and a back slot end positioned adjacent to said back wall end, said at least one continuous longitudinal slot being slidably engageable with said at least one projecting slide portion to position and transform said basket assembly between a first size and a second size, said at least one projecting slide portion engaged with said front slot end and disengaged from said back slot end when said basket is said first size, said at least one projecting slide portion engaged with said back slot end and disengaged from said front slot end when said basket is said second size; ..."

Sloane, McConnell and Insalaco are described above. No combination of Sloane, McConnell and Insalaco describes or suggests a rack assembly as recited in Claim 9. Specifically, no combination of Sloane, McConnell and Insalaco describes or suggests a rack assembly having a collapsible basket assembly including at least one projecting front wall slide portion engaged with a lateral wall front slot end and disengaged from a lateral wall back slot end when the basket is a first size, and the projecting front wall slide portion engaged with the back slot end and disengaged from the front slot end when said basket is a

second size, as required by Applicant's claimed invention. Rather, Sloane describes vertical legs of the edge frames (3) that continuously engage a same end-loop (1a) with the container (C) in the erected position and the collapsed position, McConnell merely describes a non-collapsible dishwasher enclosure assembly (11), and Insalaco merely describes a non-collapsible basket (10). Accordingly, for at least the reasons set forth above, Claim 9 is submitted to be patentable over Sloane in view of McConnell, and further in view of Insalaco.

Claims 10-16 depend, directly or indirectly, from independent Claim 9. When the recitations of Claim 10-16 are considered in combination with the recitations of Claim 9, Applicant submits that dependent Claims 10-16 likewise are patentable over Sloane in view of McConnell, and further in view of Insalaco.

Claim 17 recites a dishwasher including "... at least one basket assembly collapsible between a first size and a second size having a generally rectangular cross section and removably attached to said rack, said at least one basket assembly comprising: a pair of spaced apart elongate walls comprising a back wall and a front wall including at least one projecting slide portion; a pair of spaced apart end walls movably coupled to said pair of spaced apart elongate walls to connect said back wall to said front wall, each of said end walls comprising: a front wall end; a back wall end opposite said front wall end; and at least one continuous longitudinal slot comprising a front slot end positioned adjacent to said front wall end and a back slot end positioned adjacent to said back wall end, said at least one continuous longitudinal slot slidably engageable with said at least one projecting slide portion, such that said end walls and said elongate walls are movable between a first position and a second position to position and transform said basket assembly between said first size and said second size, said second position collapsing said basket assembly, said at least one projecting slide portion engaged with said front slot end and disengaged from said back slot end when said basket is said first size, said at least one projecting slide portion engaged with said back slot end and disengaged from said front slot end when said basket is said second size; ..."

Sloane, McConnell and Insalaco are described above. No combination of Sloane, McConnell and Insalaco describes or suggests a dishwasher as recited in Claim 17. Specifically, no combination of Sloane, McConnell and Insalaco describes or suggests a dishwasher having at least one collapsible basket assembly including at least one projecting front wall slide portion engaged with an end wall front slot end and disengaged from an end wall back slot end when the basket is a first size, and the projecting front wall slide portion engaged with the back slot end and disengaged from the front slot end when said basket is a second size, as required by Applicant's claimed invention. Rather, Sloane describes vertical legs of the edge frames (3) that continuously engage a same end-loop (1a) with the container (C) in the erected position and the collapsed position, McConnell merely describes a non-collapsible dishwasher enclosure assembly (11), and Insalaco merely describes a non-collapsible basket (10). Accordingly, for at least the reasons set forth above, Claim 17 is submitted to be patentable over Sloane in view of McConnell, and further in view of Insalaco.

Claims 18-20 depend directly from independent Claim 17. When the recitations of Claim 18-20 are considered in combination with the recitations of Claim 17, Applicant submits that dependent Claims 18-20 likewise are patentable over Sloane in view of McConnell, and further in view of Insalaco.

For the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 6, 7 and 9-20 be withdrawn.

Express Mail No.: EV 829957789 US

9D-DW-19448
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In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,



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